

**TITLE 78 RECODIFICATION - TITLE 78A****CHAPTER 3**

2008 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE****General Description:**

Title 78A, Chapter 3, Court of Appeals.

**Highlighted Provisions:**

This bill:

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**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****RENUMBERS AND AMENDS:****78A-3-101**, (Renumbered from 78-2a-1, as enacted by Laws of Utah 1986, Chapter 47)**78A-3-102**, (Renumbered from 78-2a-2, as last amended by Laws of Utah 1988,  
Chapter 248)**78A-3-103**, (Renumbered from 78-2a-3, as last amended by Laws of Utah 2001,  
Chapters 255, and 302)**78A-3-104**, (Renumbered from 78-2a-5, as enacted by Laws of Utah 1986, Chapter 47)**78A-3-105**, (Renumbered from 78-2a-4, as enacted by Laws of Utah 1986, Chapter 47)**78A-3-106**, (Renumbered from 78-2a-6, as last amended by Laws of Utah 2005,  
Chapter 102)

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*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **78A-3-101**, which is renumbered from Section 78-2a-1 is  
renumbered and amended to read:**[78-2a-1].     78A-3-101. Creation -- Seal.**

There is created a court known as the Court of Appeals. The Court of Appeals is a court of record and shall have a seal.

Section 2. Section **78A-3-102**, which is renumbered from Section 78-2a-2 is renumbered and amended to read:

**~~[78-2a-2].~~     78A-3-102. Number of judges -- Terms -- Functions -- Filing fees.**

(1) The Court of Appeals consists of seven judges. The term of appointment to office as a judge of the Court of Appeals is until the first general election held more than three years after the effective date of the appointment. Thereafter, the term of office of a judge of the Court of Appeals is six years and commences on the first Monday in January, next following the date of election. A judge whose term expires may serve, upon request of the Judicial Council, until a successor is appointed and qualified. The presiding judge of the Court of Appeals shall receive as additional compensation \$1,000 per annum or fraction thereof for the period served.

(2) The Court of Appeals shall sit and render judgment in panels of three judges. Assignment to panels shall be by random rotation of all judges of the Court of Appeals. The Court of Appeals by rule shall provide for the selection of a chair for each panel. The Court of Appeals may not sit en banc.

(3) The judges of the Court of Appeals shall elect a presiding judge from among the members of the court by majority vote of all judges. The term of office of the presiding judge is two years and until a successor is elected. A presiding judge of the Court of Appeals may serve in that office no more than two successive terms. The Court of Appeals may by rule provide for an acting presiding judge to serve in the absence or incapacity of the presiding judge.

(4) The presiding judge may be removed from the office of presiding judge by majority vote of all judges of the Court of Appeals. In addition to the duties of a judge of the Court of Appeals, the presiding judge shall:

- (a) administer the rotation and scheduling of panels;
  - (b) act as liaison with the Supreme Court;
  - (c) call and preside over the meetings of the Court of Appeals; and
  - (d) carry out duties prescribed by the Supreme Court and the Judicial Council.
- (5) Filing fees for the Court of Appeals are the same as for the Supreme Court.

Section 3. Section **78A-3-103**, which is renumbered from Section 78-2a-3 is renumbered and amended to read:

**[78-2a-3]. 78A-3-103. Court of Appeals jurisdiction.**

(1) The Court of Appeals has jurisdiction to issue all extraordinary writs and to issue all writs and process necessary:

(a) to carry into effect its judgments, orders, and decrees; or

(b) in aid of its jurisdiction.

(2) The Court of Appeals has appellate jurisdiction, including jurisdiction of interlocutory appeals, over:

(a) the final orders and decrees resulting from formal adjudicative proceedings of state agencies or appeals from the district court review of informal adjudicative proceedings of the agencies, except the Public Service Commission, State Tax Commission, School and Institutional Trust Lands Board of Trustees, Division of Forestry, Fire and State Lands actions reviewed by the executive director of the Department of Natural Resources, Board of Oil, Gas, and Mining, and the state engineer;

(b) appeals from the district court review of:

(i) adjudicative proceedings of agencies of political subdivisions of the state or other local agencies; and

(ii) a challenge to agency action under Section 63-46a-12.1;

(c) appeals from the juvenile courts;

(d) interlocutory appeals from any court of record in criminal cases, except those involving a charge of a first degree or capital felony;

(e) appeals from a court of record in criminal cases, except those involving a conviction or charge of a first degree felony or capital felony;

(f) appeals from orders on petitions for extraordinary writs sought by persons who are incarcerated or serving any other criminal sentence, except petitions constituting a challenge to a conviction of or the sentence for a first degree or capital felony;

(g) appeals from the orders on petitions for extraordinary writs challenging the decisions of the Board of Pardons and Parole except in cases involving a first degree or capital felony;

(h) appeals from district court involving domestic relations cases, including, but not

limited to, divorce, annulment, property division, child custody, support, parent-time, visitation, adoption, and paternity;

(i) appeals from the Utah Military Court; and

(j) cases transferred to the Court of Appeals from the Supreme Court.

(3) The Court of Appeals upon its own motion only and by the vote of four judges of the court may certify to the Supreme Court for original appellate review and determination any matter over which the Court of Appeals has original appellate jurisdiction.

(4) The Court of Appeals shall comply with the requirements of Title 63, Chapter 46b, Administrative Procedures Act, in its review of agency adjudicative proceedings.

Section 4. Section **78A-3-104**, which is renumbered from Section 78-2a-5 is renumbered and amended to read:

**[78-2a-5]. 78A-3-104. Location of Court of Appeals.**

The Court of Appeals has its principal location in Salt Lake City. The Court of Appeals may perform any of its functions in any location within the state.

Section 5. Section **78A-3-105**, which is renumbered from Section 78-2a-4 is renumbered and amended to read:

**[78-2a-4]. 78A-3-105. Review of actions by Supreme Court.**

Review of the judgments, orders, and decrees of the Court of Appeals shall be by petition for writ of certiorari to the Supreme Court.

Section 6. Section **78A-3-106**, which is renumbered from Section 78-2a-6 is renumbered and amended to read:

**[78-2a-6]. 78A-3-106. Appellate Mediation Office -- Protected records and information -- Governmental immunity.**

(1) Unless a more restrictive rule of court is adopted pursuant to Subsection 63-2-201(3)(b), information and records relating to any matter on appeal received or generated by the Chief Appellate Mediator or other staff of the Appellate Mediation Office as a result of any party's participation or lack of participation in the settlement program shall be maintained as protected records pursuant to Subsections 63-2-304(16), (17), (18), and (33).

(2) In addition to the access restrictions on protected records provided in Section 63-2-202, the information and records may not be disclosed to judges, staff, or employees of any court of this state.

125           (3) The Chief Appellate Mediator may disclose statistical and other demographic  
126 information as may be necessary and useful to report on the status and to allow supervision and  
127 oversight of the Appellate Mediation Office.

128           (4) When acting as mediators, the Chief Appellate Mediator and other professional  
129 staff of the Appellate Mediation Office shall be immune from liability pursuant to Title 63,  
130 Chapter 30d, Governmental Immunity Act of Utah.

131           (5) Pursuant to Utah Constitution, Article VIII, Section 4, the Supreme Court may  
132 exercise overall supervision of the Appellate Mediation Office as part of the appellate process.